

EXHIBIT 56

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

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TRACY HOWARD, ADINA RINGLER,
AND TRECEE ARTIS on behalf of
themselves and those
similarly situated,

Plaintiffs,

vs.

Case No. :
22-cv-00527-VC

THE HAIN CELESTIAL GROUP,
INC. d/b/a EARTH'S BEST,

Defendant.

_____ /

Remote Deposition of
ROGER CLEMENS, Ph.D.

THURSDAY, NOVEMBER 21, 2024

CERTIFIED COPY

STENOGRAPHICALLY REPORTED BY:
MARY ANN PAYONK, CSR NO. 13431

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1 THE REPORTER: Let me give you my California
2 license number, which is now required. It's 13431. And
3 now I'll swear the witness.

4 ROGER CLEMENS, Ph.D.,

5 called as a witness, having been duly
6 sworn, was examined and testified as
7 follows:

8 EXAMINATION

9 BY ATTORNEY REYNOLDS:

10 Q. All right. Good morning, Dr. Clemens. We
11 just introduced ourselves off the record, but I'll just
12 start by having us state our names on the record.

13 ATTORNEY REYNOLDS: My name is Hayley
14 Reynolds, and I'm counsel for plaintiffs.

15 THE WITNESS: And I'm Roger Clemens, witness
16 for this case.

17 ATTORNEY SPELMAN: And my name is Kate
18 Spelman, counsel for defendant.

19 ATTORNEY REYNOLDS: Great. Thanks, everyone.

20 BY ATTORNEY REYNOLDS:

21 Q. Dr. Clemens, have you been deposed before?

22 A. Yes, I have been deposed before.

23 Q. About how many times?

24 A. I'm guessing about six times.

25 Q. And were those all for lawsuits that you

1 BY ATTORNEY REYNOLDS:

2 Q. The fact that the products do not provide the
3 full spectrum of nutrients, does that mean that they
4 would present a risk if consumed as meals?

5 A. No, not at all, because dietary patterns are
6 quite variable. And through a spectrum of a day or even
7 a week, you want to achieve on the average, because
8 we're in the battle of averages and variabilities, that
9 if you miss a meal a day, it doesn't necessarily pose a
10 risk for an adult and it may not pose a risk for a
11 child, so it's the same situation.

12 And when we look at fruits and fruit
13 smoothies, they're incomplete, but they provide -- all
14 fruit is incomplete. So if we look at fruits, they
15 provide the dietary -- they support the dietary
16 guidelines encouraging fruit consumption at all ages,
17 including these kinds of products that we discussed.

18 Q. This sentence ends by saying -- or the end of
19 the sentence says that the products should be consumed
20 as snacks in addition to age-appropriate foods at
21 mealtimes.

22 A. Uh-huh.

23 Q. What are some of the age-appropriate foods
24 that you're referencing here?

25 A. Age and stage of life between 6 months, and

1 we're looking up to 24 months of age. And so based on
2 what the child's ability is to go from something that's
3 soft, like an applesauce, to something that has solids
4 and we introduce fully firm solids, the texture of
5 solids based on the ability to chew around 9 to 12
6 months of age, and it develops from that space. So
7 again, you want to look at foods that are
8 age-appropriate across the spectrum of age.

9 Q. Okay. Looking at paragraph 23, the first
10 sentence: There are many nutrient gaps among children,
11 including calcium and Vitamin D.

12 For children that are breastfeeding, what is
13 the recommended source of Vitamin D?

14 A. That's a really important question. We know
15 typically that breast milk is low in Vitamin D based on
16 the Academy recommendations. So in that space, we
17 typically advise moms who are not consuming milk to be
18 taking a Vitamin D supplement so that, in fact, their
19 infants receive an adequate amount of Vitamin D for
20 growth and development.

21 Q. If a child is formula fed, is there a
22 recommendation that the child supplement their diet with
23 Vitamin D?

24 A. Well, here in the United States as of 1980, I
25 worked with the people who developed that dietary -- the

1 Infant Formula Act of 1980 actually because the
2 Vitamin D is innate to on performance, meeting the
3 USD -- even the FDA standards, Vitamin D supplementation
4 is not required or needed.

5 Q. Skipping down here to paragraph 25, the first
6 sentence there says: Although the WHO and other
7 authoritative public health bodies encourage
8 breastfeeding through at least 6 months of age, there
9 are many situations in which breastfeeding is impossible
10 or impractical.

11 First, just a point of clarity. Is it your
12 opinion that breastfeeding is recommended past 6 months
13 of age?

14 A. Many organizations, including the American
15 Academy of Pediatrics, recommends that we breastfeed for
16 at least a year. Some will go as far as 2 years of age.
17 But we try to encourage at least 6 months of age -- 6
18 months of breastfeeding if at all possible.

19 Q. And then the sentence also references many
20 situations -- quote, many situations in which
21 breastfeeding is impossible or impractical.

22 What is that statement based on?

23 A. Based on personal experience working with moms
24 who are trying to breastfeed their children. Some of
25 it's cultural issues, but the most prominent one, in

1 Q. Do you disagree with the guidelines that
2 recommend that children under 2 consume no added sugar?

3 A. Again, I think the current phrase or legal
4 phrase -- I'm not an attorney -- that added sugars is
5 wrong and misleading because it depends how the food is
6 presented, that one food can be beneficial and if you do
7 something to that food, it's no longer beneficial, so
8 I -- I think that's very misleading.

9 I think the general public thinks added sugar
10 only refers to sucrose, which is commonly known as table
11 sugar, but the reality is sugar comes from all plant
12 sources.

13 Q. So is that a yes, that you would disagree with
14 this recommendation?

15 A. I do disagree with that recommendation the way
16 it's currently defined by law. And you're the attorney;
17 I'm not.

18 Q. Do you know why these guidelines recommend
19 avoiding added sugar?

20 A. I think in part. Not specifically. Do I know
21 why? No. I can speculate if you wish, but I want to be
22 very careful with that speculation.

23 Q. Well, I don't want you to speculate, but if
24 you have an estimation, I would take that.

25 A. I think in part, if you go back into the

1 the way the body processes the sugar in the fruit?

2 A. The making of puree from a fruit does not
3 change the way we absorb the carbohydrates from the
4 fruit.

5 Q. Does it change the fiber in the fruit?

6 A. It does not change the fiber in the fruit.
7 What was there initially remains there.

8 Q. Is there anything that changes in the nutrient
9 makeup of the fruit when it's pureed?

10 A. The only thing that changes when you go from a
11 whole fruit to a puree is the texture. The other part
12 that may change is that the product may become sweeter
13 because you're now releasing enzymes and the sugar may
14 be more palatable, even as an adult. We know that to be
15 the case. So perception-wise it may be sweeter, but
16 biologically it's the same.

17 ATTORNEY REYNOLDS: I think I'm actually close
18 to done.

19 THE WITNESS: You want to go to lunch and go
20 see your four-year old.

21 (Recess taken.)

22 BY ATTORNEY REYNOLDS:

23 Q. Okay, Dr. Clemens, are you familiar with how
24 the products at issue in this case are processed?

25 A. I am not aware of how it's processed. I can